

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

SHARON C. JONES,

Plaintiff,

v.

No. 1:23-cv-00222-KK

SAN JUAN REGIONAL MEDICAL CENTER, INC. and  
FNU LNU,

Defendants.

**MEMORANDUM OPINION AND ORDER  
GRANTING MOTION TO PROCEED IN FORMA PAUPERIS  
AND ORDER FOR NOTICE AND WAIVER**

**THIS MATTER** comes before the Court on *pro se* Plaintiff Sharon C. Jones' Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed March 15, 2023 ("Application")

**Application to Proceed *in forma pauperis***

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

*Menefee v. Werholtz*, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962). “[A]n application to proceed *in forma pauperis* should be evaluated in light of the applicant's present financial status.” *Scherer v. Kansas*, 263 Fed.Appx. 667, 669 (10th Cir.

2008) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir.1988)). “The statute [allowing a litigant to proceed in forma pauperis] was intended for the benefit of those too poor to pay or give security for costs....” See *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 344 (1948). While a litigant need not be “absolutely destitute,” “an affidavit is sufficient which states that one cannot because of his poverty pay or give security for the costs and still be able to provide himself and dependents with the necessities of life.” *Id.* at 339.

Plaintiff signed an affidavit stating she is unable to pay the costs of these proceedings and provided the following information: (i) Plaintiff’s monthly income during the past 12 months was \$2,500.00 prior to the termination of her employment in February 2023; (ii) Plaintiff’s monthly expenses total \$1,787.00; (iii) Plaintiff has \$0.00 in cash and \$100.00 in a bank accounts; and (iv) Plaintiff has two adult children who rely on her for support. The Court finds that Plaintiff is unable to pay the costs of this proceeding because she signed an affidavit stating she is unable to pay the costs of these proceedings, and because she is unemployed.

### **Notice and Waiver**

Plaintiff is proceeding *in forma pauperis* pursuant to 28 U.S.C. § 1915 which provides that the “officers of the court shall issue and serve all process, and perform all duties in [proceedings *in forma pauperis*]”). 28 U.S.C. § 1915(d). Because Plaintiff is authorized to proceed *in forma pauperis* under 28 U.S.C. § 1915, the Court orders the Clerk of the Court to notify Defendant San Juan Regional Medical Center, at the address provided by Plaintiff in her Complaint, that an action has been commenced and request that Defendant waive service pursuant to Fed. R. Civ. P. 4(d). The Court cannot order the Clerk to notify the unidentified Defendant because Plaintiff has not provided a name or address.

**IT IS ORDERED** that:

- (i) Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, Doc. 3, filed March 15, 2023, is **GRANTED**.
- (ii) The Clerk of the Court notify Defendant San Juan Regional Medical Center that an action has been commenced and request that Defendant San Juan Regional Medical Center waive service pursuant to Fed. R. Civ. P. 4(d). The notice shall include a copy of this Order, a waiver of service form, and a copy of Plaintiff's Complaint, Doc. 1, filed March 15, 2023. The Clerk shall mail the notice, waiver of service form, a copy of this Order and a copy of the Complaint to Defendant San Juan Regional Medical Center at the following address:

San Juan Regional Medical Center, Inc.  
801 W. Maple St.  
Farmington, NM 87402

If the docket shows that Defendant San Juan Regional Medical Center did not return the waiver within 45 days after mailing of the notice, waiver form, and copy of the Amended Complaint, then Plaintiff shall file a motion requesting that officers of the Court serve a copy of the summons and Amended Complaint on Defendant San Juan Regional Medical Center.

  
**KIRTAN KHALSA**  
**UNITED STATES MAGISTRATE JUDGE**